

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 Darren Gilbert,

12 Plaintiff,

13 v.

14 Jabar Wireless, Inc., et al.,

15 Defendants.
16

No. 2:21-cv-02055-KJM-AC

ORDER

17 Plaintiff Darren Gilbert alleges physical and tangible barriers prevented his use of a facility
18 operated by defendant Jabar Wireless, Inc. and owned by defendant Mohammed Eid. *See generally*
19 *Compl.*, ECF No. 1. Mr. Gilbert filed this Americans with Disabilities Act lawsuit against Jabar
20 Wireless and Mr. Eid on November 5, 2021. *See id.* Four days later, Jabar Wireless dissolved its
21 corporate status with the California Secretary of State. *See Cert. of Dissolution*, Moore Decl. Ex. C,
22 ECF No. 15-4. Mr. Gilbert has since discovered that the current operator of the facility is a
23 corporation formed by a former officer of Jabar Wireless on the same day Jabar Wireless was
24 dissolved. *See Moore Decl. ¶ 7*, ECF No. 15-3. Mr. Gilbert thus suspects the same people continue
25 to operate the facility, and he suggests the change in corporate structure was done as part of a “cat
26 and mouse game” to evade responsibility under the Americans with Disabilities Act. *See Mot.*
27 *Amend at 3*, ECF No. 15-1.

28 /////

1 Mr. Gilbert seeks leave to add Jabar Wireless's individual officers and other parties
2 responsible for the operation of the facility to his complaint. *See generally id.* No defendant has
3 appeared in this case, so the motion is unopposed. The court is satisfied that Mr. Gilbert's motion
4 is not the result of undue delay or bad faith, and that no defendant will be prejudiced by allowing
5 Mr. Gilbert to amend his complaint. The court **grants** the motion. *See Eminence Capital LLC v.*
6 *Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003) ("[T]here exists a *presumption* under Rule 15(a)
7 in favor of granting leave to amend." (emphasis in original)). Mr. Gilbert shall file his First
8 Amended Complaint¹ within five days of this order. The court also **grants** Mr. Gilbert's request
9 to continue the pretrial scheduling conference (ECF No. 18). The pretrial scheduling conference
10 set for May 27, 2022 is **reset** for Thursday, June 30, 2022 at 2:30 p.m., with the parties' joint status
11 report due on June 16, 2022.

12 This order resolves ECF Nos. 15 & 18.

13 IT IS SO ORDERED.

14 DATED: May 23, 2022.

15 
CHIEF UNITED STATES DISTRICT JUDGE

¹ Mr. Gilbert refers to his proposed amended complaint as the Second Amended Complaint. But the court struck his previously filed First Amended Complaint because it did not comply with Federal Rule of Civil Procedure 15(a)(1). *See* Min. Order, ECF No. 13. The court therefore directs Mr. Gilbert to file his amended complaint as his First Amended Complaint.